THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.10788 OF 2005

DATED:25.8.2005

Between:

M/s.Janapriya Wines

AR Police Quarters

Etcherla Mandal, Srikakulam District

Rep. by its Licensee, B.Sathyanarayana,

S/o.Gowry Naidu

…Petitioner

And

The Government of Andhra Pradesh

Rep. by its Secretary,

Prohibition and Excise Department,

Secretariat Building, Hyderabad, and others

…Respondents

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ORDER:

The petitioner was granted licence in form IL 24 in 2000 under A.P.Indian Liquor and Foreign Liquor Rules, 1970 (for short, the Rules). By reason of the said licence he opened a wine shop at Navbharath Junction, Kushalapuram Village/Panchayat, Etcherla Mandal, duly treating Kushalapuram as revenue village. The excise authorities have collected licence fee of Rs.2,50,000/- and the same was enhanced to Rs.2,85,000/- and again to Rs.3,00,000/- as per Rule 25 read with schedule to the Rules. During the year 2003 the petitioner shifted his wine shop M/s.Janapriya Wines from Kushalapuram Village to A.R.Police Quarters at Etcherla Mandal. Even

after shifting, according to the petitioner, he is liable to pay only Rs.3,00,000/- as licence fee, as the population of A.R.Police Quarters area is less than 10,000. Be that as it is, even after shifting, third respondent levied and collected an amount of Rs.3,00,000/- only as licence fee. Pursuant to an audit conducted by Accountant General, Andhra Pradesh, third respondent realized that A.R.Police Quarters forms part of S.M.Puram revenue village where the population is 11,600 and accordingly served a notice on the petitioner to pay the balance of licence fee at the rate of Rs.4,50,000/- for the years 2003-2004 and 2004-2005. This is assailed in the Writ Petition.

Learned counsel for the petitioner, Sri P.Venkat Swamy contends that when the petitioner commenced business at Kushalapuram as well as A.R.Police Quarters, population of both the villages was less than 10,000 and therefore he was asked to pay licence fee of Rs.3,00,000/-. Secondly he would urge that S.M.Puram revenue village was bifurcated into three Gram Panchayats after which the population of each Gram Panchayat was less than 10,000 and therefore any demand by third respondent for licence fee at Rs.4,50,000/- per annum is illegal and arbitrary.

Per contra, learned Government Pleader for Excise has placed strong reliance on the judgment of my learned brother A.Gopal Reddy, J in **P.Narasimha Rao v. Government of Andhra Pradesh**, and the judgment delivered by me in **Tirumala Balaji Wines v. Commissioner of Prohibition and Excise** in support of the contention that mere bifurcation of revenue village does not take away characteristics of revenue village and therefore population of revenue village is relevant for the purpose of deciding appropriate slab of licence fee as per Rule 25 read with schedule to the Rules.

Though learned counsel for the petitioner made submissions with considerable force and vehemence, this Court is not able to countenance any of them, because the issue is no more *res integra*. A similar point arise initially in W.P.Nos.5663, 5883 and 6026 of 2002, and I considered various provisions of A.P.Excise Act, 1968 and A.P.Panchayat Raj Act, 1994 and by order dt.4.4.2003 dismissed the Writ Petitions holding as under.

> …A revenue village or part of such village which is separate and declared as panchayat does not cease to be part of the revenue village from which it was carved out for the purpose of panchayat. It must be remembered that constitution of panchayat is different from constitution or continuation of village as a revenue village for the purpose of revenue accounts. A panchayat is relevant for the purpose of local administration whereas a revenue village is relevant for the purpose of revenue administration. The rule making authority was very much aware of this distinction and, therefore, has taken abundant care to define a village as revenue village for the purpose of the A.P.Indian Liquor and Foreign Liquor Rules, 1970
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Aggrieved by the same, petitioners therein preferred W.A.No.602 of 2003. The Division Bench dismissed the Writ Appeal. In the meanwhile, the District

Collector, issued notification dt.28.6.2002 by which the main Dhone Village (concerned therein) reconstituted into six separate Gram Panchayats (revenue villages co-terminus with Gram Panchayat). Though the said notification was produced before the Division Bench, the Division Bench declined to hold in favour of licensees therein. Thereafter, the petitioners therein again filed a Writ Petition before this Court placing reliance on preliminary notification issued by the District Collector. This Court in Tirumala Balaji Wines case (supra) referred to the provisions of the A.P.Districts (Formation) Act, and came to the conclusion all the hamlets or villages which were included in revenue village co-terminus with the Gram Panchayat, even after bifurcation for the purpose of reconstitution of Gram Panchayts continued to be treated as part of the revenue village and accordingly dismissed the Writ Petitions. The ratio in Tirumala Balaji Wines (supra) squarely applies to the facts of this case. Reliance is placed on certificate issued by Mandal Revenue Officer, Etcherla Mandal, which reads as under.

CERTIFICATE

This is to Certify that the following Villages are comes under S.M.Puram Revenue Village and bifurcated by three Panchayats. As per 2001 Population census, the Village-wise provisional figures of Population is as follows.

Sl. Name of the Panchayat Villages covered Population

No.

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01) S.M.Puram 1) S.M.Puram 2992

2) Lingalapeta 777

3) Bhanojiraopeta 213

4) Police Quarters 769

4751

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02) Kesavaraopeta 1) Kesavaraopeta 2123

2) Laxmudupeta 378

3) Kintali Mill 497

2998

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03) Fareedpeta 1) Fareedpeta 3417

2) Sri Rangarajapuram

(UI)

3417

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MANDAL REVENUE OFFICER

ETCHERLA

04/03/2005

A plain reading of the above would certainly show that though S.M.Puram was bifurcated into three villages, namely, S.M.Puram Gram Panchayat, Kesavaraopeta Gram Panchayat, and Fareedpeta Gram Panchayat, S.M.Puram revenue village continued to be as such without any disintegration and if we go by the same certificate, population of S.M.Puram Vilalge (the population of total three Gram Panchayats) would be more than 10,000. The certificate is of no help to the petitioner. In that view of the matter, I do not find any illegality or arbitrariness in the impugned notice.

The Writ Petition for the above reasons fails and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

25.8.2005

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